

**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**  
**REGION 22**

**EVERGREEN AMERICA CORPORATION,**

Employer,

and

CASE 22-RC-12225

**INTERNATIONAL LONGSHOREMEN'S**  
**ASSOCIATION, AFL-CIO,**

Petitioner.

**DECISION AND DIRECTION OF ELECTION**

**1. Introduction**

Petitioner, International Longshoremen's Association, AFL-CIO ("the Union") filed a representation petition pursuant to Section 9(c) of the National Labor Relations Act. At the hearing on this petition, the Union amended the petition to include in the unit it seeks to represent, three Port Captains, one Assistant Port Captain and one Engineer employed by Evergreen America Corporation ("the Employer"). The Employer argues that the petitioned-for unit is inappropriate because the five employees are managerial employees.<sup>1</sup> Based on the following facts and analysis, I reject this argument and order an election as set forth below.

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<sup>1</sup> At the outset of the hearing, the Employer argued alternatively that if the five employees were not found to be managerial, then they should be found to be professional employees and that the only appropriate unit including

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,<sup>2</sup> the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act; and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>3</sup>
3. The labor organization involved claims to represent certain employees of the Employer.<sup>4</sup>
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act for the reasons described *infra*:

**All full-time and regular part-time Port Captains, Assistant Port Captains and Engineers employed by the Employer at its Morristown, New Jersey facility, excluding all office clerical employees, sales employees, forepersons, supervisors, and guards as defined by the Act.**

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them would also include the Employer's approximately fifteen sales representatives and sales coordinators, who are all, according to the Employer, non-professional employees. (8) Subsequently, during the hearing, the Employer withdrew this entire argument. (290)

<sup>2</sup> The briefs filed by each party have been fully considered.

<sup>3</sup> The parties stipulated that during the preceding twelve-month period, the Employer derived gross revenues in excess of \$50,000 from the sale and shipment of containers directly to customers located outside of the State of New Jersey. Accordingly, I find that the Employer is engaged in commerce within the meaning of the Act. *Carolina Supplies & Cement Co., 122 NLRB 88 (1959).*

<sup>4</sup> The parties stipulated and, I find, that the Union is a labor organization within the meaning of Section 2(5) of the Act.

## 2. Facts

### a. Background

The Employer is a New Jersey corporation, with its office located in Morristown, New Jersey. The Employer is a general shipping agent for Evergreen Marine Corporation ("EMC"), a company located in Taipei, Taiwan that owns and operates approximately 50 ships used to transport cargo in containers for its customers to various ports around the world. In the New York City area, EMC's ships berth at Maher Terminal, a 400-acre terminal in Elizabeth, New Jersey.

The Employer is responsible for the loading and unloading of EMC's vessels at Maher Terminal ("the Terminal"). Neither the Employer nor EMC own the Terminal. Rather, the Employer contracts with the Terminal for terminal services, meaning that the Terminal provides a berth for ships owned or chartered by EMC as well as stevedore services, meaning that the Terminal provides employees called "stevedores" to unload and load cargo. The stevedores are employees of the Terminal. Other shipping companies berth ships at the Terminal. Usually, three of EMC's ships arrive at the Terminal each week. After berthing in Elizabeth, the ship travels to other ports in Europe or on the East Coast of the United States, such as Baltimore or Savannah. On any given day, the Employer stores two or three thousand containers at Maher Terminal.

The five petitioned-for employees work in the Employer's Marine Section, which also includes a section manager, an assistant manager and a general staffperson. The petitioned-for employees report to the New York City Marine Section Manager who reports to the Junior Vice-President who heads the Marine Department. The Marine

Department Junior Vice-President also supervises the Marine Section Manager in Salt Lake City and the Marine Section Manager in Los Angeles. The Marine Department Junior Vice President reports to the Executive Vice-President for Marine and Logistics. In its organizational chart, the Employer designates personnel at the level of Executive Vice-President and above as "management."

b. The Port Captains

The parties have stipulated that the duties of the Port Captains and the Assistant Port Captain are the same. The Port Captains and Assistant Port Captain are responsible for preparing a schedule for unloading and loading the ship, preparing a plan for loading its cargo, acting as a liaison between the ship and the port, and monitoring the unloading and loading of cargo. These duties are discussed in greater detail below.

The Port Captains remain at the Employer's Morristown office until a ship comes in. When a ship arrives, they work in the terminal, monitoring the loading and unloading of the ship. The Port Captain's manager records when the Port Captain leaves the office and returns from working in the terminal. The Port Captains have their own desks in Morristown, but do not have individual offices at the Morristown facility. The Port Captains' manager works in the Morristown office where he usually remains. The Port Captains must be available to management by phone at all times. The Port Captains' manager testified that the Port Captains contact him throughout the day to "keep [him] informed" on situations. The Port Captains' manager testified that Port Captains can handle routine matters, but they consult with him on non-routine matters or emergencies,

matters involving significant costs and matters not covered by guidelines previously given to the Port Captains. The Employer has issued detailed descriptions of the Port Captain's functions, but concedes that these may not reflect actual practice. A Port Captain cannot approve payment of checks by the Employer's accounting department. In a conflict between the Port Captain and the Ship Captain or the Chief Mate, the ship personnel prevail.

#### i. Preparation of Prospect Reports

Approximately one week before a ship is scheduled to arrive at the Terminal, the Port Captain compiles a projected schedule for the ship's activity at the Terminal, called a prospect report. The prospect report includes the dates the ship will berth, the estimated time of arrival, the estimated time the ship will berth, the times that unloading and loading, referred to as "cargo activity," will begin and finish, the total number of container movements, the number of labor gangs ordered, the hours they will work and the estimated time of departure. Some of the information on the prospect report is supplied from various departments within the Employer. The Port Captain does not change the ship's overall schedule, which has been determined by the Employer's Project Department and cannot be changed without the agreement of the Port Captain's manager.

The Port Captain obtains the estimated time of the ship's arrival from the Project Department. It generally takes three and one-half hours after the ship arrives at the harbor to get to its berth in the Terminal. The Employer advises the Port Captain of the total number of containers to be unloaded and loaded, or container "movements."

The Port Captain adds to the prospect report the planned times that cargo activity will begin and end. He also adds the estimated number of labor gangs requested. He arrives at these figures by making mathematical calculations. He is limited by the ship's overall schedule. Normally a ship is in port for about 24 hours. He knows the number of containers that a crane can move within an hour. Pursuant to Terminal procedure, one labor gang works with each crane. He knows the number of cranes that can safely be operated on a ship. The number of container movements and the length of time that the ship will be berthed determine the number of labor gangs he requests. For example, a Port Captain may be told that a ship can be in port 20 hours and will need 2,000 moves. He knows he must move 100 containers an hour and that a crane can move 25 moves per hour, so he will figure on using four cranes and four labor gangs to move the containers.

The Junior Vice-President testified that in scheduling cargo activity, the Port Captain takes into account the start times of the stevedores, who start at 7 or 8 AM, 1 PM or 7 PM. He testified that the Port Captain tries to schedule cargo activity to avoid paying overtime costs, and to use the stevedores during the day when it is less expensive to pay them, as opposed to at night. The Port Captain may recommend that the Ship Captain speed up to arrive in the Terminal at a time that is economical for cargo activity.

The Port Captain's manager reviews each prospect report. At the beginning of each week, the Port Captain's Manager contacts an administrator at the Terminal to review with him the schedules of EMC's ships coming into the terminal that week. After Terminal personnel learn the schedules of all of its customers, a Terminal representative will contact the Port Captain to tell him how many cranes and workers will be available

for each ship. If the Terminal advises that the number of stevedores is different than that requested by the Employer, the Port Captain will report this to his manager. If there is a conflict in which two vessels owned or chartered by EMC are scheduled to berth at the same time, the Port Captain's manager will decide how many gangs are assigned to each vessel.

The number of gangs assigned to a ship is ultimately decided between the Terminal manager and the Port Captain's manager. Subsequently, if a ship is behind schedule, the Port Captain may, in consultation with his Manager, request that the Terminal provide additional labor to shorten the period of cargo activity.

#### ii. Preparation of Stowage Plans

The process of loading cargo is termed "stowage." Prior to the arrival of a ship, the Port Captain prepares a stowage plan, which is a diagram showing the placement of cargo to be loaded onto the ship. In making the stowage plan, the Port Captain aims to load the cargo efficiently, and to load the ship to its maximum capacity while maintaining the ship's stability. The Port Captain starts with a computerized floor plan of the bays in the ship where cargo can be stored. EMC's ships have ten different floor plans. The Port Captain looks at the previous stowage plan's designation for the containers to be unloaded to determine what space will be available for loading. He is told the weight of the cargo the ship can handle. He contacts the Employer's Export Department to find out the size and weight of the cargo to be loaded. The Employer generally uses three sizes of containers. There may be oversized cargo to be loaded onto the ship. The Port Captain

considers the sequence of ports in the ship's route. He plans to load heavier cargo at the bottom of the ship. The Port Captain takes into account the number of cranes available at the port where cargo will be unloaded. A Port Captain will spread out cargo to conform with the positioning and number of cranes at the destination port. The Port Captain also considers whether cargo is hazardous. He must follow federal regulations and the International Maritime Code in the manner these containers are handled. He must get approval from his manager if he deviates from these guidelines. He learns from the Employer whether containers must be kept refrigerated and therefore require access to electricity. The Port Captain knows where electrical outlets are located on the various ships. The Export Department advises him the day before the ship comes in if military containers will be loaded and if so, the weight, size and destination of such containers.

The Employer gives the Port Captain specific guidelines as to how space on the ship is to be used. The Port Captain uses a computer to superimpose onto the floor plan a diagram showing where containers going to the various ports will be placed. He uses a hydrostatic table to evaluate the ship's stability after cargo is loaded according to the stowage plan.

If a ship will berth between 3:30 AM and 5:30 PM, the Port Captain must complete the stowage plan the night before the ship will berth. If the ship is to be berthed after 5:30 PM, the Port Captain must complete the plan before noon on that day. The Port Captain submits the stowage plan to his manager, and to his manager's supervisor for review. The Port Captain must review the stowage plan with the ship's Chief Mate, who



is in charge of the ship's cargo, to determine if it is in conflict with a previous stowage plan

### iii. Liaison Between Ship and Port

The Port Captain notifies the Coast Guard 96 hours before a ship arrives to advise the Coast Guard of the ship's estimated time of arrival and departure. The Employer's Junior Vice President characterized this procedure as "routine." If the Coast Guard changes the ship's schedule, then the Port Captain must notify his manager. The Port Captain must tell the Coast Guard the names of the crew, and their date of birth, nationality and position aboard ship. The Coast Guard usually performs a safety inspection, during which the Port Captain is present. During such an inspection, the Coast Guard typically checks hazardous containers. If the Coast Guard finds unsafe conditions on the ship, the Port Captain will ask the Ship Master or Ship Engineer repair the condition. The Port Captain may arrange for a surveyor, who is a licensed marine engineer designated by the Employer to inspect repairs. The Port Captain cannot authorize a repair. If a repair cannot be completed before the ship is scheduled to depart, the Port Captain will contact his manager.

The Employer has contracted with various vendors to supply services to the ship while it is in port, including a tugboat company to provide tugboats, a piloting company to provide pilots to maneuver the boat in the harbor, the Terminal to supply linemen to tie the ship to the terminal, and a husbandry agent to assist in clearing customs. The Marine Department Junior Vice-President, or the Junior Vice-President in conjunction with his

supervisor, determines with which vendor the Employer contracts. EMC has contracted with a bunker oil supplier to provide bunker oil. The Ship Captain determines the number of tugboats needed. Each ship requires two pilots. EMC determines how much bunker oil will be supplied.

The Port Captain arranges for tugboats, pilots, linemen, a husbandry agent and bunker oil. These contacts are, as one of the Employer's witnesses acknowledged, routine. If a Port Captain learns that any vendor with whom the Employer has a standing arrangement cannot meet the needs of a particular ship, then the Port Captain notifies his manager. The Junior Vice-President may consult with the Port Captains as to the performance of the various services with whom the Employer contracts.

The Port Captain communicates with the Ship Captain. If the Ship Captain informs him that any crew members need medical attention, the Port Captain works with his manager to arrange this. He cannot arrange for medical attention on his own. If a crew member is not able to rejoin the ship, the Port Captain sees that the Immigration and Naturalization Service is contacted and advises his manager of the change so that the manager can determine if a substitute crew member is needed. The Ship Captain may tell the Port Captain that he needs money, charts or maps.

#### iv. Monitoring Unloading and Loading

The Port Captain monitors the unloading and loading of the ship by the stevedores. The Port Captain does not supervise the stevedores who are supervised by employees of the Terminal. There was a conflict between the parties' proffered evidence as to whether

a Port Captain can, on his own, hire a "reefer," or refrigerator mechanic to assist in unloading refrigerated containers.

The Port Captain brings any significant errors involving unloading and loading to the attention of his manager. He investigates unloaded damaged containers and reports these to his manager. He does not make the determination as to whether to repair these containers. He has the discretion to determine whether to load a damaged container. The Port Captain may determine that time constraints do not permit loading all of the containers as planned. In such a case, the Port Captain may refrain from loading empty containers.

The Port Captain reports unusual incidents such as a stowaway to his manager. There was testimony at the hearing about an incident where a crew member did not show up at the ship's scheduled departure time. The Port Captain's manager decided that the ship could not sail.

The Port Captains' manager must approve any significant change in the stowage plan made after he has reviewed it. For example, if a customer asks for change in number of containers to be loaded at a particular port that will significantly impact upon the weight of the ship's cargo, then the Port Captain must notify his manager, as well as the ship's Chief Mate. Or, if the Port Captain determines that the placement of a hazardous container pursuant to the stowage plan results in a potential unsafe condition, he consults with his manager to decide whether to withhold the hazardous container.

The Port Captain evaluates the stability of the ship with a hydrostatic table once the cargo has been loaded. The Chief Mate may adjust the ballast, a tank on the ship that can be filled with water to balance the ship, in response to the way the vessel is loaded or unloaded. The Port Captain may make a recommendation concerning the ballast.

#### v. Terms and Conditions of Employment

The Port Captain may sleep and take meals on the ship while it berths. The Port Captain is entitled to a meal allowance when his manager confirms that he worked on a shift that entitles him to such allowance.

The Port Captain does not attend management meetings. The Employer gives a gold lapel pin to its managers. The Employer does not give the Port Captains or the Assistant Port Captain these lapel pins. A Port Captain cannot authorize a visitor to board a ship, although his manager can give this permission.

The Port Captain usually works over 40 hours weekly. He does not get overtime pay. He does not punch a time clock. If he works a weekend day, he gets day off. If he works 24 hours straight through during the week, he gets four hours off.

#### vi. Education and Work Experience

The Employer requires the Port Captains to have the equivalent of a bachelor's degree in navigation. The Employer prefers that a Port Captain have experience as a ship captain.

## b. The Engineer

The Engineer works in the Marine Section in the Employer's Morristown office until a ship arrives, when he goes to the Terminal to see if the ship needs assistance with a mechanical problem. He works with the Ship Engineer to repair the ship, and may arrange for the purchase of parts or obtain the assistance of a mechanic. He does not actually perform a repair. He may communicate with the Coast Guard about an engine room failure or deficiency. He is in charge of updating maritime engineering certificates and insuring that a ship has a certificate of financial responsibility concerning pollution of the harbor. He reports to the Marine Section Manager. He does not punch a time clock. He has the equivalent of a bachelor's degree in engineering.

## 2. Analysis

Although the Act makes no specific provision for “managerial employees” under Board policy, this category of personnel has long been excluded from the protection of the Act. See *Ladies Garment Workers v. NLRB*, 339 F.2d 116, 123 (2d Cir. 1964); *Palace Dry Cleaning Corp.*, 75 NLRB 320 (1947); *Ford Motor Co.*, 66 NLRB 1317 (1946).

In *NLRB v. Yeshiva University*, 444 U.S. 672 (1980), the Supreme Court described managerial employees:

Managerial employees are defined as those who “formulate and effectuate management policies by expressing and making operative the decisions of their employer.” These employees are “much higher in the managerial structure” than those explicitly mentioned by Congress which “regarded [them] as so clearly outside the Act that no specific exclusionary provision was found necessary.” Managerial employees must exercise discretion within, or even independently of, established

employer policy and must be aligned with management. Although the Board has established no firm criteria for determining when an employee is so aligned, normally an employee may be excluded as managerial only if he represents management interests by taking or recommending discretionary actions that effectively control or implement employer policy.

*NLRB v. Yeshiva University*, above, 444 U.S. at 682–83. The reason managerial employees are exempted from the coverage of the Act is to ensure "that employees who exercise discretionary authority on behalf of the employer will not divide their loyalty between employer and union." 444 U.S. at 687-688.

While work that is based upon technical and professional competence must necessarily involve the exercise of discretion and judgment, technical and professional employees who exercise such discretion and judgment are not necessarily managerial employees. *General Dynamics Corp.*, 213 NLRB 851, 857-58 (1974). Technical and professional employees are not vested with managerial authority merely by virtue of their status because work performed in that status may have a bearing on the direction of their employer. *Id.* at 858. Such an effect is not equivalent to a change in business policy. *Id.*

The Employer argues that Port Captains exercise managerial discretion in adjusting a ship's schedule, overseeing unloading and loading of cargo, making arrangements for the ship in port, instructing ship captains and in controlling costs while a ship is at berth. I find that the Port Captains do not exercise extensive discretion in their work, and what discretion they do exercise is a function of the technical and professional nature of their work and is not managerial discretion. See *General Dynamics*, 213 NLRB at 857-88, above. I find no evidence that Port Captains formulate the Employer's business policies. I note that Port Captains work under the supervision of their manager on all but routine

matters. The degree to which their actions are reviewed is inconsistent with managerial status. The evidence reveals that they lack the requisite discretion and judgment, independent of the Employer's established policies, necessary to confer managerial status upon them. See *NLRB v. Yeshiva University*, 444 U.S. at 682-83, above. Employees do not acquire managerial status by making decisions or exercising discretion "within established limits set by higher management." *Holly Sugar Corp.*, 193 NLRB 1024, 1026 (1971).

I do not find that the record supports a finding that the Port Captain has authority to adjust the ship's schedule. The Port Captain's duties with respect to scheduling are to prepare a prospect report, which primarily includes information compiled from various departments concerning the ship's schedule and the cargo that the Employer intends to load onto the ship. Once this information has been compiled, the Port Captain makes a mathematical calculation to determine the projected length of cargo activity, using his knowledge of how many containers can be moved by a crane and how many cranes can safely work on the ship, to determine the time required to unload and load the ship. He schedules the cargo activity based on the ship's overall schedule, which he may not vary, and information readily obtainable from the Terminal concerning the starting times of Terminal employees and their overtime requirements. The Port Captain's manager reviews the prospect report.

In support of its contention that the Port Captain's duties with regard to scheduling are managerial, the Employer relies on the Board's finding that an expeditor with scheduling duties was a managerial employee in *Vulcanized Rubber & Plastics Co.*, 129 NLRB 1256 (1961). The expeditor in *Vulcanized Rubber* determined schedules that had an impact

upon employees' assignments and schedules and thus had a conflict of interest with his employer's employees that made him managerial. Here, the scheduling duties of the Port Captains do not have an impact upon employees of the Employer. These duties do not make for a conflict of interest between the Port Captain and rank and file employees. The Port Captain's scheduling of cargo activity within the confines of the ship's schedule, and based on the number of cargo movements and cranes is more like that of the flight dispatchers in *Southwest Airlines Co.*, 239 NLRB 1253 (1978). The scheduling decisions made by the flight dispatchers there, like those made by the Port Captains here, based on mathematical, economic and safety considerations, are distinguishable from managerial decisions.

Nor are the Port Captains managerial employees because of their function of planning how cargo is to be loaded onto the ship. These plans do not amount to formulations of policy. The Employer has determined that the ship must be loaded to its capacity. The other considerations used in planning stowage - that heavier cargo be loaded near the bottom of the ship, that cargo be loaded so that it may be efficiently unloaded, that the layout of cargo bear a relationship to the location of the cranes at a port- are professional, not managerial. See *Upper Great Lakes Pilots, Inc.*, 311 NLRB 131, 145 (1993) (finding ship pilots not to be managerial employees). The Employer relies on *Moore-McCormack Lines, Inc.*, 181 NLRB 510, 512 (1970), in which the Board wrote that duties performed by ship cargo supervisors "involving the planning and execution of plans for cargo loading" were "of a managerial nature." The Board held in *Moore McCormack Lines* that for this and other reasons, the ship cargo supervisors there lacked a community of interest with clerical employees in a shipping company. *Id.* This



is not to say that any employee who plans and executes plans for cargo loading is a managerial employee. The decision as to whether an employee is a manager is made on a case-by-case basis based on the degree of discretion and authority exercised by the disputed employee. *Drukker Communications, Inc.*, 258 NLRB 734, 743 (1981); *Curtis Industries*, 218 NLRB 1447, 1448 (1975)(dissenting opinion). For example, the Board found that "vessel planners" who planned stowage on a ship were statutory employees in *Matson Terminals, Inc.*, 321 NLRB 879 (1996). Where as here, planning decisions are limited by the requirements of the customer and are based on technical knowledge of the Employer's capabilities, the employee making such decision is not a managerial employee. *American Standard Inc.*, 237 NLRB 45, 46 (1978).

As to the Port Captains' function of making arrangements for the ship in port, I find that these functions are wholly routine and therefore do not characterize a managerial employee. I find no evidence that the Port Captains "instruct" Ship Captains. The Employer's Junior Vice President pointed out repeatedly in his testimony that the Port Captain does not "instruct," but makes a "recommendation" to the Ship Captain, who outranks the Port Captain. The Employer cites as an example of an instruction to the Ship Captain, the Port Captain's involvement in a Coast Guard inspection. I find that the role of the Port Captain in such inspections is essentially to act as a go-between between the Coast Guard and the ship staff to notify the ship personnel of any deficiency found by the Coast Guard so that engineering and other personnel can make a repair. There was evidence that a Port Captain may recommend that the Ship Captain try to get to the port quickly in order for the Employer to avoid paying premium rates for stevedores. I find

that in so doing the Port Captain is making a recommendation in the obvious interest of thrift rather than acting with a managerial prerogative.

I reject the Employer's argument that managerial status is conferred by the mere fact that the Port Captain's stowage plan can have an impact upon the Employer's costs by minimizing container moves because there is a cost to the Employer per container movement. Such a causal connection reflects the fact that the Port Captain's professional expertise is integral to the Employer's operation, but does not reveal a role in formulating business policy. See *General Dynamics*, 213 NLRB at 858, above. The impact of this decision on the Employer's costs does not evidence managerial authority. *Id.*

Finally, the Employer argues that the Engineer is a managerial employee merely because he exercises discretion. Mere exercise of discretion is insufficient to endow managerial status. *Id.*

### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently subject to the Board's Rules and Regulations. Eligible to vote are employees in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike that commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States who

are employed in the unit may vote if they appear in person or at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible to vote shall vote whether or not they desire to be represented for collective bargaining purposes by the **International Longshoremen's Association, AFL-CIO**.

### **LIST OF VOTERS**

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties in the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, two (2) copies of an election eligibility list containing the full names and addresses of all the eligible voters in the unit found appropriate above shall be filed by the Employer with the undersigned, who shall make the list available to all parties to the election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). In order to be timely filed, such list must be received in NLRB Region 22, 20 Washington Place, Fifth Floor, Newark, New Jersey 07102, on or before August 21, 2002. No extension of time to file this list shall be granted except in

extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

### **RIGHT TO REQUEST REVIEW**

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. The Board in Washington must receive this request by August 28, 2002

Signed at Newark, New Jersey this 14<sup>th</sup> day of August, 2002.

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